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Zur Geschichte und Organisation des Römischen Vereinswesens.

Drei Untersuchungen von W. LIEBENAM, Ph.D., Privatdocent an der Universität Jena. Leipzig, B. G. Teubner, 1890. — 8vo, viii, 335 pp.

Les Manieirs d'Argent à Rome. Étude Historique. Par

ANTONIN DELOUME, Professeur à la Faculté de Droit de Toulouse. Paris, E. Thorin, 1890. — 8vo, 500 pp.

The general reader who is not repelled by the formidable apparatus of notes and citations or by the lengthy discussion of philological and antiquarian *minutiae* in Dr. Liebenam's book, will obtain from it a clear idea of the character of the Roman guilds and many interesting details of their history. The special student will value the work for the very qualities which may prove deterrent to the general reader. In the first of his three essays the author traces the general development of Roman industrial and commercial associations. In the third he examines their organization in detail. In the second essay he takes up separately each group of guilds — from the *navicularii*, who had fleets on all the waters of the empire and provided all its great cities with corn, to the gladiators, mimes and musicians who ministered to its amusement — and shows, as far as the literary and epigraphic material makes this possible, their territorial distribution.

The history of the Roman *collegia*, according to the Romans, reached far back into the royal period. Liebenam views the traditional guilds of that period with critical distrust. Some of them seem to him quite irreconcilable with what we know of the economic conditions of the time. Even in the republican period the evolution of true craft guilds must have been greatly impeded by the self-sufficiency of the landed household with its slave artisans. The earliest Roman guilds, Liebenam thinks, were made up of landless freemen; and one of their chief objects must have been the protection of free industry against slave labor. They attained little importance even when the social life became more complex, because the early establishment of commercial relations with more civilized countries and the extensive importation of foreign products checked the development of Roman industry. The merchants thrived, but not the artisans. Nevertheless, the latter had their colleges throughout the republican period, and the colleges had sacrifices to their patron deities and annual banquets. They probably helped their members in distress and, if necessary, paid for their funerals. They needed, Liebenam thinks, — the point is controverted, — no authorization from the state, though they might be dissolved by the Senate on grounds of public interest; and they were ordinarily free from the supervision of the magistrates.

Towards the end of the republic these associations were largely cap-

tured by demagogues and utilized as political clubs. It was a period of such clubs, and many new *collegia* and *sodalitates* were founded which made no pretence of pursuing other than political ends. In this, as in many other respects, the last century of the Roman republic has, to an American, a singularly modern air. It seems like a chapter of contemporary metropolitan history when we read of district associations, recruited *ex omni face urbis*, named after political leaders, organized in blocks of ten (*decuriæ*), and officered by *sequestres*, who levied contributions on the candidates for office, and by *divisores*, whose name needs no interpretation. Non-voters, slaves even, were taken in; for they were useful in street-fights and election riots.

With the establishment of the empire all societies were suppressed except the old religious colleges and the true guilds. New associations, it is generally supposed, henceforth needed the express authorization of the Senate; but Liebenam maintains that a decree of the Senate was necessary only to confer corporate rights, and that in the early imperial period, at least, the people still enjoyed the right of free association. Of course the colleges could always be suppressed, as in the previous period, if they pursued ends of which the government disapproved. As regards the actual practice, Liebenam cites with approval the saying of Rodbertus, that the empire took the power of association from the upper classes and gave it freely to the lower. There were general statutes for the incorporation of the *collegia tenuiorum*.

The early empire was the period of the greatest development of the mercantile and craft guilds. Many of them discharged functions of the greatest importance to the administration, and received valuable concessions and privileges from the imperial government. But the very importance of their duties and of the privileges granted them occasioned a constant increase of governmental supervision and control; until, in the later empire, the relation of the guilds to the state ceased to be regulated by free contract and was fixed by imperial ordinance. At the same time the associations ceased to be voluntary. All persons pursuing a given calling were forced into the proper college; and the sailor was bound to his ship and the artisan to his bench, as the peasant farmer was bound to the soil and the soldier to his legion. Service of all kinds became hereditary. The member of a guild was forbidden to marry out of the guild, on penalty of deportation and confiscation of all his property. But with this final form of the Roman college our readers have been familiarized by Mr. Adams Brown's admirable account of the "State Control of Industry in the Fourth Century" (*POLITICAL SCIENCE QUARTERLY*, II, 494).

Dr. Liebenam's scholarly investigation supplements the classical work of Mommsen, *De Collegiis et Sodalitiis*, published in 1843. He

has utilized, with conscientious care, the epigraphic material since discovered, and has re-examined the grounds of Mommsen's conclusions. In another way these essays supplement Cohn's *Zum Römischen Vereinsrecht*. Cohn is chiefly concerned with the law of association at Rome, while Liebenam, without ignoring the legal problems involved, is more interested in the historical and economic aspects of the subject.

It is to a large extent with associations at Rome that Professor Deloume also busies himself, but with associations of a different character. In studying the history of the Roman financiers he devotes much of his attention to the *societates publicanorum*, which, according to his theory, were stock companies. He shows that during the last two centuries of the republic a large number of financial associations were suddenly organized to contract with the state for the performance of great public undertakings. These were the societies of the publicans. They assumed tasks of every description: the construction of public buildings, military roads and aqueducts; the exploitation of state mines, quarries and salt-works; the purchase and transportation of the corn needed for distribution to the proletariat of Rome; army supplies of all kinds and the transportation of troops; and, finally, the collection of all kinds of imposts and taxes. This last was so much the most important of all their various fields of operation that publican and tax-farmer came to be regarded as almost synonymous terms. Sometimes different societies farmed the different taxes; sometimes all the revenues of a province were purchased, for a term of years, by one great society. These companies were composed, primarily, of *socii*, i.e. of persons who contracted directly with, and gave ample security to, the treasury; but in second instance there were numerous silent partners, *participes*, who invested definite sums in the names of the ostensible members of the company, and who had definite shares, *partes*, in the business. By a special exception to the general law of the Roman *societas* — an exception which inured to the benefit of the publicans alone — these *partes*, or shares, like the interests of the *socii* themselves, were heritable and alienable. In other words, the *societates publicanorum*, according to Deloume, were joint-stock companies with two classes of stockholders: the one class indefinitely liable, and the other liable only to lose the money actually invested or pledged. The *socii* were the real managers of the company and determined the dividends; the *participes* had claim only to the dividends declared and, in case of the dissolution of the company, to a share of the capital stock. This is essentially the French stock-company *par commandite*.

The shares in these companies naturally varied, from time to time, in

value. Stock in the Asiatic company must ordinarily have commanded a large premium ; but events like the massacre of all the Romans in Asia and the Mithridatic war must have made it temporarily valueless. According to Deloume, shares in the publicans' companies were the object of active and constant speculation on the forum. There were not only *partes*, but *particulæ*, and the latter were within the reach of all but the very poor. Whoever held a share was of course interested in the success of his company, and any legislative measure promoted by the publicans was sure of the votes of all their shareholders. Assuming, as Deloume does, that nearly every one in Rome was a shareholder, it is easy to see why the equestrian order, to which all the publicans belonged, was able to shape the legislation of the *comitia* and to make itself the chief power in the state. Its greatest triumph was gained when the *lex judiciaria* of the younger Gracchus gave it the monopoly of criminal justice. Henceforth the publicans were practically irresponsible: the plundered provincials or some watch-dog of the treasury at Rome might initiate proceedings against them, but they were sure of exculpation. At the same time the provincial governor who dared to check their manœuvres, in the interest either of the provincials or of the treasury, was liable to be crushed beneath fictitious charges. The power of gold had become so great at Rome that nothing but iron could break it; and the only way out of the plutocracy of the later republic led into the military monarchy. With the establishment of the empire, the publicans were so closely watched and controlled that their enterprises lost most of their speculative value; and before long imperial officials did the greater part of the work formerly done by private contractors. Then the joint-stock company, possible only in the case of the publicans, disappeared from the Roman law.

M. Deloume has nothing to say either of the magnitude of the financial enterprises conducted by the Roman capitalists or of their complete control of the state during the last century of the republic that any one conversant with Roman history will care to dispute. His statement that their operations were "*certainement plus vastes que les plus grandes entreprises de nos jours*" may be set down as a rhetorical exaggeration, but in general the picture that he draws is a faithful one. As to their power, nothing more can be said than was said by the Romans themselves; nor can anything be more conclusive on this point than the mingled admiration and apprehension with which the time-serving Cicero invariably alluded to them. But when we come to Deloume's theory of the juristic organization of the publicans' companies, we are struck with the paucity of texts upon which his argument rests and the large amount of *a priori* reasoning employed in its support. His further assumption that the shares of these companies were held by

multitudes of "la classe moyenne" and that the capitalists controlled the popular assemblies through the votes of the small stockholders, really rests upon a single text. Polybius says that the enterprises farmed out by the censors were actually conducted by the people (διὰ τοῦ πλήθους); and that almost everybody, so to say (σχεδὸν, ὡς ἕπος εἰπεῖν, πάντας), had an interest in them. But "the people" is an elastic term; and when one speaks of "everybody" in a city, he is quite apt to refer to a class as restricted as the French describe to-day by the phrase "all Paris." If we know anything about the economic condition of the city of Rome in the last century before Christ, we know that there was no middle class; that the enormous wealth of the city was in relatively few hands, and that there was a more abrupt line of demarcation between the rich and the poor than exists to-day in any great city of the world. The moneyed class controlled the assemblies through the venal votes of the very poor.

In one respect M. Deloume's reconstruction of the *societates publicanorum* is confused and contradictory. When he shows how the senators, who were legally debarred from any overt participation in the profits of the publicans, evaded the law by becoming silent partners, and again when he argues that the *participes* were not personally responsible to the treasury, he tells us that their names did not appear, and that their connection with the enterprise was not ascertainable (pages 142, 150). But when he inquires what were the rights of the *participes* against the company, how these rights were enforced and how they were transferred, he tells us that each company kept a register of its shareholders and that the transfer of a share was made by entry in the register (pages 158, 492). We are also told, in connection with the case of Verres, that these registers were open to judicial inspection.

A peculiarity of M. Deloume's book is his uncritical use of Livy as an historical authority and of Cicero as a juristic authority. When we find him repeating Livy's fables concerning the essentially economic character of the earliest struggles between the patricians and the plebeians, and when we are told by him that Cicero's works give us "les documents *les plus exacts* sur le droit spécial à son époque," we do not need the evidence of his own references to modern literature to perceive that he reads German works only in French translations.

Both of these books are interesting studies in social history; and both bear out the statement of the French author that, whatever ground the Roman law may have lost in Europe as a purely legal discipline, it has more than made good in another direction — through the growing recognition of its importance to students of politics and economics.